

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ADAM CHASTEEN,	:	
	:	NO. 1:10-CV-00804
Petitioner,	:	
	:	
	:	
v.	:	OPINION AND ORDER
	:	
	:	
WARDEN, MADISON CORRECTIONAL	:	
INSTITUTION,	:	
	:	
Respondent.	:	

This matter is before the Court on the Magistrate Judge's Report and Recommendation, (doc. 56), Petitioner's objections thereto (doc. 58), and Respondent's response to Petitioner's objections (doc. 59). In his Report and Recommendation, the Magistrate Judge recommends that Petitioner's petition for habeas relief be denied with prejudice, that Petitioner be denied a certificate of appealability, and that the Court certify that an appeal of this Opinion and Order would not be taken in good faith.

The facts and procedural history are well-detailed in the Magistrate Judge's Report and Recommendation and will not be reiterated here. In brief, Petitioner was convicted in a bench trial of one count of kidnapping, one count of witness intimidation and one count of assault, and he was sentenced to five years of imprisonment (doc. 56). In challenging his incarceration, he raises six grounds for relief: (i) that he was convicted in

violation of his Fifth Amendment right against double jeopardy; (ii) that he was convicted in violation of his Fifth and Fourteenth Amendment rights to due process and equal protection; (iii) that he was convicted in violation of his Sixth Amendment right to effective assistance of counsel; (iv) that he was convicted of his Sixth Amendment right to effective appellate counsel; (v) that the evidence was insufficient beyond a reasonable doubt, rendering his conviction violative of his Fifth and Fourteenth Amendment rights to due process and equal protection; and (vi) that his conviction was obtained against the manifest weight of the evidence, in violation of his Fifth and Fourteenth Amendment rights to due process and equal protection (docs. 1 and 20).

The Magistrate Judge concluded that grounds one and two are procedurally barred because Petitioner failed to present them to the state courts appropriately and that, in the alternative, they are meritless; that grounds three and four are procedurally defaulted; that ground five is meritless because the state court conclusions were not unreasonable applications of federal law; and that ground six does not state a claim upon which habeas relief can be granted because it does not state a claim under either the Constitution or federal laws.

The Court notes that Petitioner's objections are largely reiterations of his arguments in his petition. He has presented nothing showing that the Magistrate Judge's factual determinations

or legal conclusions were in error. The Court is under no obligation to review de novo objections that are merely perfunctory or an attempt to engage the Court in a rehashing of the same arguments set forth in the original petition. See, e.g., Edwards v. Fischer, 414 F.Supp.2d 342, 346-47 (S.D. N.Y. 2006). However, out of an abundance of caution, the Court has conducted a de novo review of the extensive filings in this matter and has reached the same conclusions as those reached by the Magistrate Judge. Indeed, the Court finds the Magistrate Judge's Report and Recommendation to be thorough, well-reasoned and correct and thus AFFIRMS and ADOPTS it in its entirety, DENIES Petitioner's objections, and DENIES WITH PREJUDICE Petitioner's habeas petition (docs. 1 & 20).

The Court DECLINES to issue a certificate of appealability with respect to Petitioner's claims for relief because "jurists of reason" would not find it debatable whether this Court is correct in its procedural rulings, and Petitioner has failed to make a substantial showing of the denial of a constitutional right. See Slack v. McDaniel, 529 U.S. 473, 484-85 (2000); 28 U.S.C. § 2253(c), Fed. R. App. P. 22(b). Pursuant to 28 U.S.C. 1915(1)(c), this Court CERTIFIES that any appeal of this order will not be taken in good faith, and therefore DENIES Petitioner leave to appeal in forma pauperis upon a showing of financial necessity. See Fed. R. App. P. 24(a); Kincade v. Sparkman, 117 F.3d 949, 952 (6th Cir. 1997).

The Court's opinion herein renders Petitioner's Objection to Magistrate's Decision and Order, In Part (doc. 22); Objection to Magistrate's Decision and Order Denying Second Motion to Expand the Record (doc. 35), with Notice of Amendment (doc. 52); and Petitioner's Objection to Magistrate's Decision and Order Denying Motion to Supplement Petition (doc. 40) moot, and they are DENIED as such.

SO ORDERED.

Dated: April 11, 2012 /s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge